

REMARKS

Claims 27-52 are pending in this application. In the office action, the Examiner objected to the drawings under 37 CFR 1.83(a). The Examiner rejected Claims 27-52 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner also rejected Claims 27, 29-30 and 32 under 35 USC §103 as being obvious over Ueno et al. (6,530,918) in view of Toscheck et al. (6,327,278). Claims 33, 35, 36, 38, 41, 42 and 44 are rejected under 35 USC §103(a) as being unpatentable over Ueno et al. in view of Alphonse et al. (6,363,088). Claims 45, 47, 48 and 50 are also rejected under 35 USC §103(a) as being unpatentable over Ueno et al. in view of Marshall et al. (5,982,789). Claim 51 is rejected under 35 USC §103(a) as being unpatentable over Ueno et al. and Toscheck et al. as applied to claim 27 above and further in view of Hutchinson (5,504,762).

In response, the applicant has amended the specification and claims 27, 30, 33, 36, 39, 42, 45, 48, and 52. Claims 27-52 are pending in this application. The foregoing amendments and the following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections. An early Notice of Allowance is therefore requested.

The Examiner objected to the Drawings under 37 CFR 1.83(a) stating that the "head ophthalmoscope" and the "handpiece" of claim 52 must be shown or cancelled from the claims. The applicant respectfully disagrees with the Examiner's reasoning. The specification makes it clear that the applicator can be of several different forms. It lists the "head ophthalmoscope" and the "handpiece" as two alternate forms. (See, for example, page 8, lines 12-14 and lines 18-21). Being simply two types of applicators, it is unnecessary to show each type when the applicator, itself, is clearly shown in all of the drawings and designated by the box labeled as AP in accordance with 37 CFR 1.83(a). Therefore, the Examiner's objection is traversed.

In the office action, the Examiner rejected Claims 27-52 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 27, 30, 33, 36, 39, 42, 45 and 48 have all been amended to provide sufficient antecedent basis for the "applicator". Claims 45 and 48 have been amended to eliminate the language regarding the "possibility." Claim 52 and the specification has been amended to spell out "CPC."

The Examiner has rejected claims 35, 38, 41, 44, 47 and 50 because he contends that they do not provide a further structural limitation of the claims by reciting a laser link with a zoom system. The applicant is unsure of the exact nature of the Examiner's rejection. The claim limitation of a laser link with a zoom system is not positively recited in any of the independent claims. Simply by reciting the additional limitation of laser link with a zoom system, it adds additional limitations to the independent claim from which it depends.

The Examiner has stated that it is unclear how the "applicator" as defined by claim 48 can include all the elements in a handpiece. Again, the applicant is unsure of the exact nature of the Examiner's rejection. The specification states that one form of the applicator can be a handpiece. Hand piece type applicators are well known in the art and it would be well within the scope of one skilled in the art to make without further explanation in the specification. Accordingly, the applicant considers the Examiner's rejection traversed.

The Examiner also rejected Claims 27, 29-30 and 32 under 35 USC §103 as being obvious over Ueno et al. (6,530,918) in view of Toscheck et al. (6,327,278). The Examiner contends that Ueno et al discloses a medical laser therapy device comprising all elements essentially as claimed except for the specific Nd- doped waveguide laser and its associated pump module with its coupling to the laser. The Examiner further contends that Ueno et al. discloses a ND:YAG laser source and frequency doubler and points to col. 3, line 66- col. 4, line 46; col. 5, lines 5-13 and col. 5, line 55 - col. 6, line 50. The applicant respectfully disagrees.

First, neither Ueno nor Toscheck disclose "a controllable pump module with a coupling element for a waveguide" as claimed in claims 27 and 30. There are no means described in either reference to vary the output power of the laser diode. Thus, claims 27 and 30 cannot be rendered obvious by the combination of these two references. Second, neither reference discloses a frequency doubler as claimed in claim 27. The closest specification citation in Ueno is col. 4, lines 22-24. However, that citation simply identifies that an Nd:YAG laser with 1064 nm is used to generate light with 532 nm. Similarly, Toscheck also does not describe a frequency doubler. Moreover, the laser described in Toscheck is not able to deliver the power necessary for frequency doubling. Thus, claim 27 also cannot be rendered obvious over the combination of Toscheck and Ueno because neither reference discloses a frequency doubler, which is recited in that claim. Claims 28, 29 and 32 depend from either claim 27 or 30. Consequently, the Examiner's rejection of these claims based on the combination of Toscheck and Ueno is traversed.

The Examiner contends that claims 33, 35, 36, 38, 39, 41, 42 and 44 are rejected under 35 USC §103(a) as being unpatentable over Ueno et al. in view of Alphonse et al (6,363,088). However, as demonstrated above, Ueno does not describe "a controllable pump module with a coupling element for a waveguide" as recited in independent claims 33, 36, 39 and 42. Alphonse also does not describe it. The power of the laser described by Alphonse is fixed since it depends only on the characteristics of the laser medium. See Fig. 2b. Consequently, since claims 35, 38, 41 and 44 all depend from claims 33, 36, 39 and 42 respectively, none of these claims can be rendered obvious due to the combination of Ueno and Alphonse and the Examiner's rejection is traversed.

Claims 45, 47, 48 and 50 are also rejected under 35 USC §103(a) as being unpatentable over Ueno et al. in view of Marshall et al. (5,982,789). As demonstrated above, Ueno does not describe "a controllable pump module with a coupling element for a waveguide" as recited in independent claims 45 and 48. Marshall does not do so either. The laser of Marshall is passively

stabilized by setting the cavity length and therefore not controllable. Consequently, since claims 47 and 50 both depend from claims 45 and 42 respectively, none of these claims can be rendered obvious due to the combination of Ueno and Marshall and the Examiner's rejection is traversed.

Claim 51 is rejected under 35 USC §103(a) as being unpatentable over Ueno et al. and Toscheck et al. as applied to claim 27 above and further in view of Hutchinson (5,504,762). Claim 51 is dependent on claim 48. Hutchinson teaches the use of an optical detector 38 to detect the stray light from an optical coupler 18. There are no means described to vary the output power of the laser diode. The system of Fig. 3 is only useful for a feedback control of the laser diode 10. Consequently, claim 51 cannot be rendered obvious due to the combination of Ueno et al. and Toscheck et al. and further in view of Hutchinson.

Claims 27 - 58, the only claims pending in this application, are believed by applicants to define patentable subject matter and should be passed to issue at the earliest possible time. In view of the foregoing, it is respectfully submitted that the claims are in condition for allowance and favorable reconsideration and prompt notice to that effect are earnestly solicited.

Respectfully submitted,

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